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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/781,964  | 02/14/2001  | Wilfried A. Maestle  | 2091/49088CP        | 9756             |
| 7590  | 04/06/2006  |                      | EXAMINER            |                  |
| CROWELL & MORING LLP<br>Intellectual Property Group<br>P. O. Box 14300<br>Washington, DC 20044-4300 |             |                      | COLBERT, ELLA       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3624                |                  |

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                      |  |
|------------------------------|------------------------|----------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>  |  |
|                              | 09/781,964             | MAESTLE, WILFRIED A. |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 20 January 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-69 is/are pending in the application.
  - 4a) Of the above claim(s) 1-47 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 48-69 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-69 are pending. Claims 1-47 have been withdrawn and Group II, claims 48-69 have been elected for prosecution without traverse in response to the Election/Restriction requirement filed 10/13/05 and the Miscellaneous Communication to the Applicant filed 1/20/06.

### ***Abstract***

2. The Abstract is objected to because the Abstract contains over 150 words.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 48 –69 are provisionally rejected under the judicially created doctrine of double patenting over claims 49, 53—58, 60-62, 66, and 67 of copending Application No. 09/676,248. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: claim 49 recited all limitations recited by Claim 48 except claim 48 recites “for generating financial statements, financial data, charts, graphs and reports using the standard project finance tools, and providing limited recourse including debt service reserve accounts, stand-by loans and risk sharing with suppliers and off-takers in a computer; permitting entry and editing of data ...; ... based on an earlier automatically generated disbursement time series” and claim 49 of application ‘964 recites “automatically generating and manually editing variable interest rate time series to permit automatic across-the-board changes and simulation of cyclical patterns and shocks”; claim 49 recites “selecting one of fixed,

variable and manual interest rate while, in case of variable interest rate, creating a link between loan and variable interest rate and ensuring change of a loan interest rate at an appropriate rollover date with basis points added or subtracted as user inputs and, in case of manual interest rate selection, gaining access to entry fields to set manually interest rate at appropriate rollover dates not allowing changes between such dates”; claim 50 recites “inputting input-output coefficients for requirements of intermediate products and automatically generating time series for amount of intermediate product to be used as input for next stage with remainder being sold outside and manually editing said time series and at the same time being permitted generating output time series for each production stage selectively for end product or for intermediate products”; claims 51-59 recite substantially the same limitations as for claims 53-58 and 60-62 in the copending application ‘248, except “for end and intermediate products”; claim 60 recites “inputting units of joint products produced per unit of main product and production cost allocated to joint products and automatically allocating remainder of production costs to main product which permitting to use to generate output time series for each main or joint product”; and claims 61-69 recite substantially the same limitations as for claims 53-58 and 60-62 in the ‘248 copending application, except “for main and joint products”.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claim corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ210 (CCPA 1968). See also MPEP § 804.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 48-69 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims begin with the word "Method". The article "A" should precede the Claim language.

The claims recite "permitting entry of data representative of multiple contracts ...". There is no positive recitation that the entry of data is actually done and the recited step is not considered limiting.

The claims recite that a "loan disbursement time series" is generated. A thorough review of the Specification provides no understanding of what constitutes a "loan disbursement time series". The phrase does not appear in the Specification and a review of all references to "disbursement" and "series" provides no clarification. For the purposes of examination, it is assumed that this concept is very similar or identical to the recited "disbursement schedule". The use throughout the claims of the phrase "time series" is confusing because the concept is either redundant or not clearly explained in the Specification. It is unclear whether such a series is a schedule, table or some other organization of information related to time. Clarification is required.

The claims also recite the phrase "a capital expenditure time series" which is not clear from the claim language or the Specification.

Additionally, for purposes of examination, the phrase “disbursement schedule” is interpreted to constitute a schedule of disbursements to pay off a loan. The claim language does not distinguish over this interpretation.

Claim 49, lines 11-15 recite “..., ..., in case of variable interest rate, creating a link between loan and variable interest rate and ensuring change of a loan interest rate at an appropriate rollover date with basis points added or subtracted as user inputs and, in case of manual interest rate selection, gaining access to entry fields to set manually interest rate at appropriate rollover dates not allowing changes between such dates” is unclear as written. The metes and bounds of the claim limitation cannot be determined. Claim 50, page 99, lines 7-11 and claim 60, page 101, lines 3-5 have a similar problem.

Claims 52, 53, 55, 62, 63, and 65 recite steps where an activity is “allowed” with no positive recitation that the step is actually performed.

Claims 48- 50 and 60 recite steps where an activity is “permitted” with no positive recitation that the step is actually performed; the recited step is not considered limiting.

Claims 54 and 64 recite the phrase “cash flow income statement”. This particular statement is unknown to the Examiner, who studied accounting; it does not appear in the prior art of record.

Applicants' are respectfully requested to review the wording of the claims because they appear to be a literal translation from a foreign document and not written in idiomatic English.

Examination has been conducted to the best of the Examiner's ability given the condition of the claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 48-58 and 60-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,381,332) Wood in view of (US 5,878,404) Stout, Jr. et al, hereafter Stout, Jr.

Claim 48. Wood discloses the invention substantially as claimed including a method for implementing a machine-readable financial simulation computer program (col. 7, line 44-col. 8, line 13) comprising: installing the program which is contained as computer readable code on a computer usable medium in a computer (col. 4, lines 26-59); permitting entry of data representative of multiple contracts (col. 10, lines 51-62) and multiple capital expenditure categories (Background of the Invention; col. 5, lines 1-9-references to equipment). Wood did not disclose these elements of project management and is concerned with project cost and budgeting, Wood does not specifically disclose the recited limitations concerning project related loans. Stout discloses selecting a desired loan financing time horizon (Background of the Invention); setting a percentage of a capital expenditure time series to be financed (col. 6, line 50-col. 7, line 5). As to the limitation reciting generating a loan disbursement time series and disbursement schedule independent of changes in capital expenditures and in exchange rates, Official Notice is taken that it is old and well known to maintain the substance of a loan as constant. For example, the lender does not care whether a borrower makes additional purchases or uses different currencies; the lender is only concerned that the borrower make timely, adequate payments to pay off a loan. It would have been obvious to one having ordinary skill in the art at the time the invention was made to maintain a simple loan package by maintaining independence of payments from these factors because this would help to assure that payments were clearly allocable to a particular loan agreement. It would further have been obvious to allow a

borrower to determine the percentage of a capital expenditure to be financed because this would allow for the most profitable use of cash reserves.

Wood does not specifically disclose automatically generating and manually editing variable interest rate time series to permit automatic across-the-board changes and a simulation of cyclical patterns and shocks. Stout, Jr. discloses automatically generating and manually editing variable interest rate time series to permit automatic across-the-board changes and a simulation of cyclical patterns and shocks (col. 5, lines 6-47 – shown in these lines). It would have been obvious to one having ordinary skill in the art at the time the invention was made and as best as can be determined to automatically generate and manually edit the variable interest rate time series to permit automatic across-the-board changes and a simulation of cyclical patterns and shocks and to modify Wood to allow for adjustable interest rates because such a simulation would provide a predictable revenue stream to a lender.

Claim 49. Wood did not specifically disclose, selecting one of fixed, variable and manual interest rate while, in case of variable interest rate, creating a link between loan and variable interest rate and ensuring change of a loan interest rate at an appropriate rollover date with basis points added or subtracted as user inputs and, in case of manual interest rate selection, gaining access to entry fields to set manually interest rate at appropriate rollover dates not allowing changes between such dates. Stout, Jr. disclosed selecting one of fixed, variable and manual interest rate while, in case of variable interest rate, creating a link between loan and variable interest rate and ensuring change of a loan interest rate at an appropriate rollover date with basis points

added or subtracted as user inputs and, in case of manual interest rate selection, gaining access to entry fields to set manually interest rate at appropriate rollover dates not allowing changes between such dates (col. 4, line 66- col. 6, line 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wood to have selecting one of fixed, variable and manual interest rate while, in case of variable interest rate, creating a link between loan and variable interest rate and ensuring change of a loan interest rate at an appropriate rollover date with basis points added or subtracted as user inputs and, in case of manual interest rate selection, gaining access to entry fields to set manually interest rate at appropriate rollover dates not allowing changes between such dates because such a modification would allow Wood to have payments due at predetermined payment intervals during the term of the loan.

This independent claim is rejected for the similar rationale as given above for claim 48.

Claim 50. Wood disclose inputting input-output coefficients for requirements of intermediate products and automatically generating time series for amount of intermediate product to be used as input for next stage with remainder being sold outside and manually editing said time series and at the same time user being permitted generating output time series for each production stage selectively for end product or for intermediate products (col. 7, line 55-col. 8, line 68). This independent claim is rejected for the similar rationale as given above for claims 48 and 49.

Claims 51 and 61. Official Notice is taken that it is old and well known for a company to build inventories. For example, a company anticipating an increase in sales would build inventories to meet the future demand. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Wood the automatically building of inventories for end and intermediate products because this would account for the inventory effects in a business financial simulation environment.

Claims 52 and 62. Official Notice is taken that the allowing of cash flow risks to be shared with a supplier for end and intermediate products is old and well known in business. For example, simple late payment of a bill causes the supplier to share the cash flow risk with a buyer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wood to accommodate such risk sharing because this would improve a buyer's chances of financial survival at the worst, and profitability at the best.

Claims 53 and 63. Wood discloses The method as claimed in Claim 50, further comprising allowing selection of a time needed to produce one output unit for end and intermediate products (col. 9, lines 24-54 and figure 5 –"Work Start Date" and "Work End Date").

Claims 54 and 64. Official Notice is taken that an income statement for a period and a balance sheet prepared at the end of the period would inherently account for the output variations including maintenance shutdowns. For example, shutdowns would reduce revenues and so net income. Equity in the balance sheet would reflect reduced net income. It would have been obvious to one having ordinary skill in the art at the time

the invention was made to modify Wood to include a cash flow income statement and a balance sheet which accounts for output variations including maintenance shutdowns for end and intermediate products because this would give owners a clear understanding of financial performance over a fiscal period.

Claims 55 and 65. Wood discloses allowing sale of output or portions thereof on a cost-plus basis for end and intermediate products (col. 18, lines 31-50).

Claims 56 and 66. Wood discloses checking dynamic impact of changes in key variables on limited recourse reserve availability for multistage production processes using intermediate products to produce an end product 9col. 20, line 51-col. 21, line 11).

Claims 57 and 67. Wood discloses inputting multiple variables per product for end and intermediate products (col. 14, line 8-col. 15, line 7).

Claims 58 and 68. Wood discloses inputting different types of sales contracts per product for end and intermediate products (col. 9, lines 1-23 and figure 6).

Claim 60. Wood discloses inputting units of joint products produced per unit of main product and production cost allocated to joint products and automatically allocating remainder of production costs to main product which permitting to use to generate output time series for each main or joint product (col. 7, lines 4-43 and line 55-col. 8, line 13).

This independent claim is rejected for the similar rationale as given above for claims 48-50.

Claims 59 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,381,332) Wood in view of (US 5,878,404) Stout, Jr. et al, hereafter Stout, Jr. and further in view of Dictionary of Finance and Investment Terms.

Claims 59 and 69. Wood does not specifically disclose break-even testing a sales contract for end and intermediate products. Dictionary discloses this limitation on page 66. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wood to include break even testing to distinguish the profitable from the unprofitable contracts.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Belcsak et al (US 2005/0182709) disclosed a financial modeling and analysis tool.

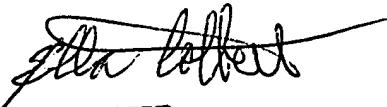
King et al (US 5,704,045) disclosed accepting risk through contractual obligations.

***Inquiries***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ELLA COLBERT  
PRIMARY EXAMINER

E. Colbert  
Primary Examiner  
March 30, 2006